



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 147

[EPA-HQ-OW-2020-0595; FRL 8378-04-OW]

State of Michigan Underground Injection Control (UIC) Class II Program; Primacy Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is issuing a final rule approving Michigan's Class II Underground Injection Control (UIC) Program for primacy. EPA has determined that the State's program is consistent with the provisions of the Safe Drinking Water Act (SDWA) to prevent underground injection activities that endanger underground sources of drinking water (USDWs). EPA's approval allows Michigan to implement and enforce the State's regulations for Class II UIC wells, which cover oil and gas related injection well activities. EPA will remain the permitting authority for all other UIC well classes in Michigan and the sole permitting authority for all UIC well classes in Indian country within the State. EPA will also oversee Michigan's administration of the State's UIC Class II program as authorized under SDWA.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. For judicial purposes, this final rule is promulgated as of **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. **EPA-HQ-OW-2020-0595**. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., Confidential

Business Information (CBI) or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Kyle Carey, Drinking Water Protection Division, Office of Ground Water and Drinking Water (4606M), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, D.C. 20460; telephone number: (202) 564-2322; fax number: (202) 564-3754; email address: carey.kyle@epa.gov, or Anna Miller, UIC Section, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604; telephone number: (312) 886-7060; email address: miller.anna@epa.gov.

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I. Introduction

A. UIC Program Primacy

EPA may grant primary authority and enforcement responsibility or “primacy” for implementing the UIC program to states, territories, and federally recognized tribes – hereafter referred to as applicants that apply under SDWA. Primacy programs are established under SDWA Sections 1422 and 1425. To obtain primacy under SDWA Section 1422, Applicants must

meet EPA’s regulatory requirements for UIC programs. SDWA Section 1425 provides an alternative option for obtaining primacy for the Class II UIC program, which covers oil and gas related injection well activities. SDWA Section 1425 requires the applicant to demonstrate that its Class II UIC program is effective in preventing underground injection that endangers USDWs.

An applicant seeking UIC program primacy under SDWA Section 1425 must demonstrate to EPA that it has an “effective” Class II program to prevent the endangerment of USDWs, including jurisdiction over underground injection and provisions for the necessary administrative, civil, and criminal enforcement penalty remedies under SDWA. EPA conducts a thorough technical and legal review of the primacy application. The application and EPA’s review include these elements: The applicant’s UIC statutes and regulations; documents describing the public participation process; a request from the applicant’s governor or authorized representative for primacy under SDWA; the program description; an attorney general’s or authorized representative’s statement of enforcement authority; and a memorandum of agreement (MOA) between EPA and the applicant, describing the administration, implementation, and enforcement of the applicant’s UIC program.

B. Class II Wells under the UIC Program

Class II wells are used only to inject fluids associated with oil and natural gas production. Class II fluids are typically injected thousands of feet below the surface into rock formations isolated from USDWs. Class II wells fall into one of three categories: disposal wells, which inject fluids brought to the surface during oil and gas extraction; enhanced recovery wells, which inject fluids into oil-bearing formations to recover residual oil and, in limited applications, natural gas;¹ and hydrocarbon storage wells, which inject liquid hydrocarbons into underground formations (such as salt caverns) where they are stored, generally, as part of the U.S. Strategic

¹ Class II wells include hydraulic fracturing operations related to oil and gas production only where diesel fuels are used in the injection fluid. See SDWA Section 1421(d)(1)(B)(ii).

Petroleum Reserve.

C. Final Rule

In this final rule, EPA is approving Michigan's application because it meets or exceeds all applicable requirements for approval under SDWA Section 1425 and the agency has determined that the State can administer a Class II UIC program in a manner consistent with the terms and purposes of SDWA and all applicable regulations to protect USDWs. With EPA's approval, Michigan will implement and enforce a State Class II UIC regulatory program that is effective in preventing the endangerment of USDWs. EPA will remain the permitting authority for all other UIC well classes in Michigan and the sole permitting authority for all UIC well classes in Indian country within the State. EPA will also oversee Michigan's administration of the State's UIC Class II program as authorized under SDWA.

II. Entities Affected by this Action

Regulated Entities

Category	Examples of Potentially Regulated Entities	North American Industry Classification System
Industry	Private owners and operators of Class II injection wells located within the State (Enhanced Recovery, Produced Fluid Disposal, and Hydrocarbon Storage)	211111 & 213111

This table is intended to be a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION**

CONTACT section of this preamble.

III. Legal Authorities

Michigan applied to EPA under SDWA Section 1425 for primacy for all Class II injection wells within the State, except those in Indian country. EPA is approving Michigan's UIC program primacy application for such Class II injection wells located within the State by rule, as required under SDWA, to prevent injection activities that endanger USDWs.

Accordingly, EPA codifies Michigan's Class II UIC program in the *Code of Federal Regulations* (CFR) at 40 CFR part 147, under the authority of SDWA Section 1425, 42 U.S.C. 300h-4.

IV. EPA's Review of State UIC Program Requirements

EPA thoroughly reviewed Michigan's Class II primacy application to determine whether the State's program constitutes an "effective" program to prevent the endangerment of USDWs, in accordance with SDWA Section 1425. EPA has provided guidance with respect to factors that EPA may consider in reviewing a Class II UIC program for effectiveness. Guidance for State Submissions Under Section 1425 of the Safe Drinking Water Act (SDWA) – Ground Water Program Guidance #19 – provides instructions on how states may apply for primacy approval under SDWA Section 1425, the process for approval or disapproval, and criteria that EPA may consider in approving or disapproving an application.

EPA has determined that Michigan's Class II UIC program is effective at preventing the endangerment of USDWs, and is accordingly, approving the State's program. EPA will oversee Michigan's administration of the Class II UIC program. As part of EPA's oversight responsibility, EPA will require Michigan to submit semi-annual reports of non-compliance and annual UIC performance reports. The MOA between EPA and Michigan, signed by the Regional Administrator on October 13, 2020, makes available to EPA any information obtained or used by Michigan's Class II UIC program, without restriction. EPA continues to administer the UIC program for all other injection well classes in the State and for all wells in Indian country.

V. Michigan's Application for Class II UIC Primacy

A. Background

The UIC program in Michigan has thus far been directly implemented by EPA for all well classes since the initiation of the program under SDWA (in 1984). EPA Region 5 has conducted all application review, permitting, and oversight of injection well activities within the State. Region 5 and EPA Headquarters worked closely with Michigan to develop a Class II UIC regulatory structure and primacy application package that demonstrates a state program that is effective in preventing the endangerment of USDWs, as required under SDWA Section 1425.

B. Public Participation Activities Conducted by the State of Michigan

On February 15, 2018, the State published a notification in the *Michigan Register* announcing its UIC Class II regulations and requesting comment. Michigan accepted public comment through March 16, 2018, and held a public hearing on the State's regulations and its intent to apply for primacy on February 28, 2018. Both oral and written comments received for the hearing were generally supportive of the State pursuing primacy for the Class II UIC program.

C. Notice of Completion and Public Participation Activities Conducted by EPA

On April 15, 2020, EPA published a notice of Michigan's complete application in the *Federal Register* (80 FR 69629) and posted a similar announcement on EPA's Region 5 website. The notice established a 60-day public comment period and a public hearing on May 27, 2020. The May 27, 2020 public hearing was held virtually due to restrictions on meetings imposed by Michigan related to COVID-19 and to protect public health.

On March 9, 2020, EPA sent a written invitation to interested tribes, requesting a consultation regarding the agency's review of Michigan's request for program approval, in accordance with *EPA Policy for Consultation and Coordination with Indian Tribes* (May 4, 2011). EPA held a telephone consultation conference call with interested tribes on April 14, 2020. EPA received a total of 40 public comments in the electronic docket, by paper mail, and during the virtual hearing, most of which supported Michigan's application. In particular, two

tribes submitted requests to be consulted when EPA is considering a permit approval for a well adjacent to Indian country and within ceded territory. EPA communicated the concerns raised in these comments via email to the Michigan Department of Environment, Great Lakes, and Energy (EGLE or the Department) on July 23, 2020. In response, EGLE sent a letter (dated August 6, 2020), in which the Department committed to consult and coordinate with tribes regarding permit applications for wells adjacent to Indian country (defined in accordance with 18 U.S.C. 1151) and within the ceded territory where tribes hold off-reservation treaty rights.

Detailed documents covering the comments submitted to EPA through the public comment process and the tribal consultation, as well as the agency's responses and steps taken, can be viewed in the docket for this final rule (Docket ID No. EPA-HQ-OW-2020-0595). See the preceding **ADDRESSES** section of this preamble for information on accessing the docket.

VI. Proposed Rule and Public Comments

A. Background

On March 19, 2021, EPA published in the *Federal Register* a direct final rule approving Michigan's UIC Class II application for primacy (86 FR 14846) and requesting public comments during a 30-day comment period. Simultaneously with the direct final rule, EPA published a proposed rule to approve Michigan's UIC Class II application for primacy (86 FR 14858). EPA stated in that direct final rule that if the agency received adverse comments by April 19, 2021, the agency would publish a timely withdrawal of the direct final rule in the *Federal Register*, informing the public that the direct final rule would not take effect and that the agency would consider and address all public comments in any subsequent final rule based on the proposed rule. EPA received adverse comments on that direct final rule and subsequently issued a withdrawal notification on June 17, 2021 (86 FR 32221), before the effective date of the direct final rule.

B. Public Comments

In total, EPA received input from 87 individual commenters. Most comments were

submitted by individual citizens opposed to granting Michigan primacy for the Class II UIC program. Commenters raised concerns about underground injection, the State's application for primacy, EPA's review and rulemaking process, and a need for an additional public hearing to be held by EPA to gather further input on the agency action.

Each of the comments and EPA's responses can be viewed in the docket (ID No. EPA-HQ-OW-2020-0595) as part of the final rule. See the preceding **ADDRESSES** section of this preamble for information on accessing the docket.

C. EPA's Response

EPA's response to comments provides details on its regulations, guidance, processes, and actions relative to the concerns raised during the 30-day public comment period.² In summary, EPA performed a thorough review of all application elements and worked closely with Michigan prior to its application submittal to ensure the State's program met the standard of effectiveness established under SDWA Section 1425, including Michigan's rules governing public participation. Furthermore, EPA provided sufficient advance notice of its intent to approve Michigan's primacy application, along with the agency's request for public comment, in the *Federal Register* (85 FR 14858, March 19, 2021), on the agency's website, and in three State newspapers. The State also provided such notice on its website. These notifications meet the requirements of the Federal regulations at 40 CFR part 25. Details of the State-Federal partnership between EPA and Michigan are explicitly listed in the MOA, which is included in the rulemaking docket. Among the topics included in the MOA are EPA's compliance monitoring, information sharing, enforcement, and oversight of the Michigan Class II UIC program.

After considering public comments, EPA is issuing this final rule approving primacy to Michigan for the Class II UIC program. EPA's detailed response to comments document is

² Additional information about EPA's primacy process can be found in Section I.A of this preamble or on EPA's website at: www.epa.gov/uic/primary-enforcement-authority-underground-injection-control-program.

included in this action's docket (ID No. EPA-HQ-OW-2020-0595). See the preceding

ADDRESSES section of this preamble for information on accessing the docket.

VII. Incorporation by Reference

In this action, EPA is approving Michigan's Class II UIC program, whereby the State will assume primacy for regulating Class II injection wells in the State, except within Indian country. Michigan's statutes and supporting documentation are publicly available in EPA's Docket No. EPA-HQ-OW-2020-0595. This action amends 40 CFR part 147 and incorporates by reference the EPA-approved State program. EPA will continue to administer the UIC program for all other well classes in Michigan and all well classes within Indian country.

The provisions of Michigan's statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators of UIC Class II wells are incorporated by reference into 40 CFR 147.1150 by this rule. Any provisions incorporated by reference, as well as all permit conditions or permit denials issued pursuant to such provisions, will be enforceable by EPA pursuant to SDWA Section 1423 and 40 CFR 147.1(e).

To better serve the public, EPA is reformatting the codification of "EPA-Approved State of Michigan Safe Drinking Water Act § 1425 Underground Injection Control (UIC) Program Statutes and Regulations for Class II wells." Instead of codifying the Michigan statutes and regulations as separate paragraphs, EPA is now incorporating by reference a compilation that contains EPA-approved Michigan statutes and regulations for Class II wells. This compilation is incorporated by reference into 40 CFR 147.1150 and is available at www.regulations.gov in the docket for this rule. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and in hard copy at the EPA Headquarters in Washington, D.C., and EPA Region 5 office in Chicago, Illinois (see the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). A complete list of the Michigan statutes and regulations contained in the compilation, titled "EPA-Approved State of Michigan Safe Drinking Water Act § 1425 Underground Injection Control

(UIC) Program Statutes and Regulations for Class II Wells,” dated November 24, 2020, is codified as Table 1 to paragraph (a) in that section, 40 CFR 147.1150.

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempt from review by the Office of Management and Budget (OMB) because OMB has determined that the approval of primacy for the UIC program is not a significant regulatory action.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. EPA determined that there is no need for an Information Collection Request under the PRA because this final rule does not impose any new Federal reporting or recordkeeping requirements. Reporting or recordkeeping requirements will be based on Michigan’s UIC regulations, and Michigan is not subject to the PRA. However, OMB has previously approved the information collection activities contained in the existing UIC regulations and for SDWA Section 1425, under the provisions of the PRA, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2040-0042.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities if the rule has no net burden on the small entities subject to the rule. This action would not impose any new requirements on small entities. It simply

approves and codifies Michigan's Class II UIC program, which meets the same standard under SDWA Section 1425 as is required for EPA's regulations governing its direct implementation of a Class II UIC well program, both of which must ensure effective programs to prevent underground injection that endangers USDWs. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector. EPA's approval of Michigan's primacy application will not constitute a Federal mandate because there is no requirement that a state establish a UIC regulatory program and because the program is a state rather than a Federal program.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 and as explained in section I.C of this preamble. Nevertheless, EPA engaged the interested public during a public hearing and specifically conducted a consultation with federally recognized tribes to obtain unique perspectives to inform EPA's approval of Michigan's UIC Class II Program within the State, except on Indian lands, as described in section V.C of this preamble. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may

disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive order. This action is not subject to Executive Order 13045 because it approves a state action as explained in section I.C of this preamble.

H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

EPA has determined that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or a safety standard. This action is providing Michigan with primacy under SDWA Section 1425 for a Class II UIC program, pursuant to which Michigan will be implementing a program that is effective in preventing the endangerment of USDWs. As a part of EPA’s primacy review, the agency engaged the interested public during a public hearing and conducted a consultation with federally recognized tribes to obtain unique perspectives to inform the agency’s approval of Michigan’s UIC Class II Program within the State, except in Indian country, as described in section V.C of this preamble.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 147

Environmental protection, Incorporation by reference, Indian lands, Intergovernmental

relations, Reporting and recordkeeping requirements, Water supply.

Michael S. Regan,
Administrator.

For the reasons set out in the preamble, EPA amends 40 CFR part 147 as follows:

**PART 147— STATE, TRIBAL, AND EPA-ADMINISTERED UNDERGROUND
INJECTION CONTROL PROGRAMS**

1. The authority citation for part 147 continues to read as follows:

Authority: 42 U.S.C. 300f et seq.; and 42 U.S.C. 6901 et seq.

Subpart X—Michigan

2. Add § 147.1150 to read as follows:

§ 147.1150 State-administered program—Class II wells.

The UIC program for Class II injection wells in the State of Michigan, except for those in Indian country, is the program administered by the Michigan Department of Environment, Great Lakes, and Energy, approved by EPA pursuant to the Safe Drinking Water Act (SDWA) section 1425. The effective date of this program is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Table 1 to paragraph (a) of this section is the table of contents of the Michigan State statutes and regulations incorporated as follows by reference. This program consists of the following elements, as submitted to the EPA in the State’s program application.

(a) *Incorporation by reference.* The requirements set forth in the State’s statutes and regulations approved by EPA for inclusion in “EPA-Approved State of Michigan Safe Drinking Water Act § 1425 Underground Injection Control (UIC) Program Statutes and Regulations for Class II wells,” dated November 24, 2020, and listed in Table 1 to this paragraph (a), are hereby incorporated by reference and made a part of the applicable UIC program under SDWA for the State of Michigan. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a)

and 1 CFR part 51. Copies of the Michigan regulations and statutes that are incorporated by reference may be inspected at the U.S. Environmental Protection Agency, Water Docket, EPA Docket Center (EPA/DC), EPA WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC 20004; the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604; or the Michigan Department of Environment, Great Lakes, and Energy, Oil, Gas, and Minerals Division, Constitution Hall, 525 West Allegan Street, Lansing, Michigan 48909; telephone number (517) 284-6823. If you wish to obtain materials from the EPA Headquarters in Washington DC, please call the Water Docket at (202) 566-2426 or from the EPA Regional Office, please call (312) 353-2147. You may also inspect the materials at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fr.inspection@nara.gov, or go to www.archives.gov/federal-register/cfr/ibr-locations.html.

**Table 1 to paragraph (a) — EPA-Approved State of Michigan SDWA Section 1425
Underground Injection Control Program Statutes and Regulations for Well Class II**

State citation	Title/subject	State effective date	EPA approval date
Natural Resources and Environmental Protection Act, Act 451 of 1994, Part 615 (Supervisor of Wells), Michigan Compiled Laws (MCL) Sections 324.61501 – 324.61527	Supervisor of Wells	Effective September 10, 2004	[INSERT DATE OF PUBLICATION], [INSERT FEDERAL REGISTER CITATION]
Natural Resources and Environmental Protection Act, Act 451 of 1994, Part 13 (Permits), MCL Sections 324.1301-324.1317	Permits	Effective March 29, 2019	[INSERT DATE OF PUBLICATION], [INSERT FEDERAL REGISTER CITATION]
Natural Resources and Environmental Protection Act, Act	Orphan Well Fund	Effective May 24, 1995	[INSERT DATE OF PUBLICATION], [INSERT FEDERAL

451 of 1994, Part 616 (Orphan Well Fund), MCL Sections 324.61601 – 324.61607			REGISTER CITATION]
Natural Resources and Environmental Protection Act, Act 451 of 1994, Part 17 (Michigan Environmental Protection Act), MCL Sections 324.1701 - 324.1706	Michigan Environmental Protection Act	Effective March 30, 1995	[INSERT DATE OF PUBLICATION], [INSERT FEDERAL REGISTER CITATION]
Administrative Procedures Act, Act 306 of 1969, MCL Sections 24.201 – 24.328	Administrative Procedures Act	Effective June 29, 2018	[INSERT DATE OF PUBLICATION], [INSERT FEDERAL REGISTER CITATION]
Revised Judicature Act of 1961, Act 236 of 1961, MCL Section 600.631	Revised Judicature Act	Effective April 1, 1974	[INSERT DATE OF PUBLICATION], [INSERT FEDERAL REGISTER CITATION]
Michigan Department of Environmental Quality Part 615 (Oil and Gas Operations) Administrative Rules, Michigan Administrative Code (MAC) as follows: R 324.101 to 324.199, R 324.201 to 324.208, R 324.210 to 324.216, R 324.401 to 324.422, R 324.501 to 324.504, R 324.507, R 324.508, R 324.510, R 324.511, R 324.701 to 324.705, R 324.801 to 324.808, R 324.810 to 324.816, R 324.901 to 324.904, R 324.1001 to 324.1013, R 324.1015, R 324.1101 to	Oil and Gas Operations (administrative rules)	Effective 2019	[INSERT DATE OF PUBLICATION], [INSERT FEDERAL REGISTER CITATION]

324.1130, R 324.1201 to 324.1212, R 324.1301, and R 324.1401 to 324.1406.			
Michigan Department of Licensing and Regulatory Affairs (Contested Case Procedures for Department of Environmental Quality) Administrative Rules, MAC, R 324.73 and R 324.74	General Provisions (administrative rules)	Effective 2003	[INSERT DATE OF PUBLICATION], [INSERT FEDERAL REGISTER CITATION]
Michigan Department of Licensing and Regulatory Affairs (Contested Case Procedures for Department of Environmental Quality) Administrative Rules, MAC, R 324.81	Declaratory Rulings (administrative rules)	Effective 2003	[INSERT DATE OF PUBLICATION], [INSERT FEDERAL REGISTER CITATION]

(b) *Memorandum of Agreement (MOA)*. The MOA between EPA Region 5 and the State of Michigan Department of Environment, Great Lakes, and Energy signed by the EPA Regional Administrator on October 13, 2020.

(c) *Statements of Legal Authority*. “Underground Injection Control Program, Attorney General’s Statement,” signed by the Chief of the Environment, Natural Resources, and Agriculture Division of the Michigan Department of Attorney General on September 1, 2020.

(d) *Program Description*. The Program Description submitted as part of Michigan’s

application, and any other materials submitted as part of this application or as a supplement thereto.

3. Amend § 147.1151 by revising the section heading and the first sentence of paragraph (a) to read as follows:

§147.1151 EPA-administered program—Class I, III, IV, V, and VI wells and Indian country.

(a) *** The UIC program for Class I, III, IV, V and VI wells and all wells in Indian country in the State of Michigan is administered by the EPA. * * *

* * * * *

4. Revise §§ 147.1153, 147.1154, and 147.1155 to read as follows:

§ 147.1153 Existing Class II disposal wells authorized by rule in Indian country.

The owner or operator shall limit injection pressure to the lesser of:

(a) A value which will not exceed the operating requirements of § 144.28(f)(3)(i) or (ii) of this chapter as applicable; or

(b) A value for well head pressure calculated by using the following formula:

$$P_m = (0.800 - 0.433 S_g)d$$

Where:

P_m = injection pressure at the well head in pounds per square inch.

S_g = specific gravity of injected fluid (unitless).

d = injection depth in feet.

§ 147.1154 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule in Indian country.

(a) *Maximum injection pressure.* (1) To meet the operating requirements of

§ 144.28(f)(3)(ii)(A) and (B) of this chapter, the owner or operator:

(i) Shall use an injection pressure no greater than the pressure established by the

Regional Administrator for the field or formation in which the well is located.

The Regional Administrator shall establish such a maximum pressure after notice, opportunity for comment, and opportunity for a public hearing, according to the provisions of part 124, subpart A, of this chapter, and will inform owners and operators in writing of the applicable maximum pressure; or

(ii) May inject at pressures greater than those specified in paragraph (a)(1)(i) of this section for the field or formation in which he is operating provided he submits a request in writing to the Regional Administrator and demonstrates to the satisfaction of the Regional Administrator that such injection pressure will not violate the requirements of § 144.28(f)(3)(ii)(A) and (B) of this chapter. The Regional Administrator may grant such a request after notice, opportunity for comment, and opportunity for a public hearing, according to the provisions of part 124, subpart A, of this chapter.

(2) Prior to such time as the Regional Administrator establishes field rules for maximum injection pressure based on data provided pursuant to paragraph (a)(2)(ii) of this section the owner or operator shall:

(i) Limit injection pressure to a value which will not exceed the operating requirements of § 144.28(f)(3)(ii) of this chapter; and

(ii) Submit data acceptable to the Regional Administrator, which defines the fracture pressure of the formation in which injection is taking place. A single test may be submitted on behalf of two or more operators conducting operations in the same formation if the Regional Administrator approves such submission. The data shall be submitted to the Regional Administrator within one year following the effective date of this program.

(b) *Casing and cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in

compliance with the requirements of §§ 144.28(e) and 146.22 of this chapter, the owner or operator shall comply with paragraphs (b)(1) through (4) of this section, when required by the Regional Administrator:

(1) Protect underground sources of drinking water (USDWs) by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement-off a zone.

(4) The Regional Administrator may specify other requirements in addition to or in lieu of the requirements set forth in paragraphs (b)(1) through (3) of this section, as needed to protect USDWs.

§ 147.1155 Requirements for all EPA-administered wells.

(a) *Area of review.* Notwithstanding the alternatives presented in § 146.6 of this chapter, the area of review for Class II wells shall be a fixed radius as described in § 146.6(b) of this chapter.

(b) *Tubing and packer.* The owner or operator of an injection well injecting salt water for disposal shall inject through tubing and packer. The owner of an existing well must comply with this requirement within one year of the effective date of this program.

